

REMARKS

In the Office communication of March 19, 2007, the Examiner required restriction to one of the following inventions, which the Examiner considered patentably distinct under 35 U.S.C. § 121:

- I. Claims 1-2, 4, 6-16, drawn to a method of suturing a portion of biological tissues using a suturing device, classified in class 606, subclass 139.
- II. Claims 18-20 and 22, drawn to a suturing device, classified in class 606, subclass 222.
- III. Claims 28-42, drawn to a medical instrument, classified in class 604, subclass 187.

Further, the Examiner asserted that this application contains claims directed to the following patentably distinct species:

Suture Device

Species (Needle, Needle Driver)

- I. Figure 4
- II. Figure 7A
- III. Figure 10B

Subspecies (Needle Holder)

- I. Figure 2
- II. Figure 7B
- III. Figures 8A-8C
- IV. Figures 9A-9C
- V. Figure 10A

The Examiner indicated that Applicants should elect one of the above-listed species if the Applicants elect either invention I or II.

The Examiner required election of a single species upon election of one of the groups of inventions under 35 U.S.C. § 121 for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

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Applicants provisionally elect to prosecute the claims directed to Group I directed to Species I and Subspecies I, illustrated in at least Figures 2 and 4 in the present application. At least Claims 1-2, 4, 6, 8-10, 12-13, and 16 are readable on the elected species.

Applicants do not necessarily agree that there is no generic claim. Applicants also do not necessarily agree with the Examiner's identification of the patentably distinct inventions and species. Applicants reserve the right to pursue claims to Groups II and III as well as claims to Species II and III, and Subspecies II-V in one or more future applications.

The present election is made with traverse. Applicants submit that the search and examination of all claims in the application would not present a serious burden to the Examiner. It is well established that:

If the search and examination of all the claims in an application can be made **without serious burden**, the examiner **must** examine them on the merits, even though they include claims to independent or distinct inventions.

M.P.E.P. § 803 (emphasis added). Because all of the claims in this application were previously examined, and all of the subject matter being claimed has been indicated to be allowable (*see* Office Action of July 26, 2002 and Amendment filed December 7, 2004), examination of Groups II and III, Species II and III, and Subspecies II-V, concurrently with the elected Group I, Species I and Subspecies I, would not impose "a serious burden" on the Examiner. Applicants therefore respectfully request that the Restriction Requirement be withdrawn.

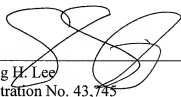
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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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AMEND

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